IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11638 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRABHAI KASHARCHAND VANIYA

Versus

COMMISSIONER OF POLICE

Appearance:

MS KRISHNA U MISHRA for Petitioner

MR HH PATEL AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/02/2001

ORAL JUDGEMENT

#. Twofold contentions are raised by the learned counsel for the petitioner challenging the order of the Police Commissioner, Rajkot city dated 10.9.2000 under which the petitioner was detained as bootlegger. Firstly it is contended that there is delay of more than 3 months in

passing of the detention order after the last case registered against the petitioner. In pare 11 of the Special Application the petitioner has raised this contention. Second contention is raised by amending the the petition is that the respondents have not supplied the petitioner copies of the statements recorded under Section 161 of the Cr.P.C., 1973 of the witnesses in the complaints.

#. Reply to the Special Civil Application is not filed by the respondents and as a result of which the only inference which has to be drawn is that they are unable to controvert these factual averments of the petitioner. These averments made by the petitioner in paras 11 and 14(a) of the Special Civil Civil Application are not controverted and as such the same are to be taken admitted. There is delay of about one month and 28 days in passing of the detention order after the last case registered against the petitioner. So, factually it is incorrect to aver by the petitioner that there is delay of 3 monts. But delay of one month and 28 days is there which has not been explained by the respondents and only on this ground this petition deserves acceptance and accordingly the same allowed. The order of detention of the petitioner dated 10.9.2000 is quashed and set aside. The petitioner Mahendrabhai Kasharchand Vaniya, the detenu, at present in Bhavnagar District Jail be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

(S.K.Keshote, J.)

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